

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DAVID LYNN PECHE,)	
)	
Plaintiff,)	
)	
v.)	1:12CV420
)	
JENNIFER HARRIS,)	
)	
Defendant(s).)	

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, has submitted a civil rights action pursuant to 42 U.S.C. § 1983 (Docket Entry 1), together with an application to proceed *in forma pauperis* (Docket Entry 2). The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The Complaint is not on forms prescribed for use by this Court, nor is the information requested by such forms and necessary to process the Complaint pursuant to 28 U.S.C. § 1915A contained in Plaintiff's submission. *See* LR 7.1(e).
2. Filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review. Plaintiff provided a handwritten request to proceed *in forma pauperis* rather than using the proper forms. His request did not include the amounts deposited into his prison trust account in the past six months.
3. Plaintiff has not given a sufficient address for Defendant to be served.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, which corrects the defects of the present Complaint. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

Plaintiff has also filed a “Motion to Amend Plaintiff Declaration to Lawsuit as Exhibit-A8.” (Docket Entry 4.) This appears to be an attempt to amend the Complaint to add further defendants and/or factual allegations. It will be denied without prejudice to Plaintiff naming all potential defendants and setting out all of his allegations in any new complaint which he may file.

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

IT IS FURTHER ORDERED that Plaintiff’s “Motion to Amend Plaintiff Declaration to Lawsuit as Exhibit-A8” (Docket Entry 4) is denied without prejudice to Plaintiff incorporating its contents into any future complaint he may file based on the allegations alleged in the current Complaint.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, which corrects the defects cited above.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge

Date: May 4, 2012